

1982 WL 189186 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 24, 1982

\*1 J. W. Lawson

Director

South Carolina Tax Commission

License Tax Division

Calhoun Office Building

Columbia, South Carolina 29201

Dear Mr. Lawson:

Your letter of January 26, 1982, to Mr. Jasper E. Harmon, Executive Director of the S.C. Tax Commission, concerning the limitation if any on longevity increases in compensation for state employees for FY 1981-1982 has been referred to this office for response. You have asked whether the limitation found in the General Appropriations Act of 1981—at page 1070, paragraph H of the 1981 Acts and Joint Resolutions—applies to longevity increases as well as base pay (i.e., ‘cost of living’) increases. It is the opinion of this office that the limitation imposed by paragraph H relates and applies solely to the across-the-board cost of living increase in compensation provided in paragraph B, page 1070, Acts and Joint Resolutions of 1981.

The relevant provisions of the FY 1981-82 General Appropriations Act are as follows:

B. Effective on the fifth pay period ending on or after July first, 1981, the compensation of each state employee shall be increased by 7% unless otherwise allowed or prohibited by paragraphs C through K of this plan.

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H. No increase shall be granted under the provisions of Paragraph B of this plan which will have the effect of paying the employee more than the salary of his agency head less \$500. Provided, that the Budget and Control Board may, by unanimous vote, waive this restriction. Provided, Further, That this restriction shall not apply to employees of constitutional officers whose salaries are fixed by the Constitution.

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Paragraph B provides for an across-the-board increase in base pay for all state employees, subject to the exceptions and qualifications contained in paragraphs C-K (pages 1070-1071, 1981 Acts and Joint Resolutions). Paragraph C makes it clear that the General Assembly was addressing only base pay increases in paragraph B:

C. Notwithstanding any other provisions of this plan, each classified employee shall be entitled to the base pay increase provided in Paragraph B or the minimum salary of his pay grade, whichever is greater. (Emphasis added)

The General Assembly specifically and separately treated longevity increases in paragraph E, excluding such increases from the general limitation that compensation not exceed the maximum for the class. Moreover, in prior legislation, the legislature has recognized the distinct nature of base pay increases, merit increases, and longevity increases. See 1980-81 General Appropriations Act, Section 169 at page 2181, 1980 Acts and Joint Resolutions.

Under these circumstances, it is the opinion of this office that longevity and merit increases are excluded from the limitation expressed in paragraph H inasmuch as paragraph H relates back to paragraph B which is concerned solely with base pay increases. See generally 2A Sutherland Statutory Construction §§ 47.23-47.25 (C. Sands ed. 1973); 82 C.J.S. Statutes, § 333 (1953); [Home Building and Loan Association v. City of Spartanburg](#), 185 S.C. 313, 319-321, 194 S.E. 139 (1937).

Sincerely,

\*2 Vance J. Bettis

Assistant Attorney General

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